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In re Application of
VOLPE, Joseph B. :
U.S. Application No.: 09/171,018 : DECISION ON
PCT No.: PCT/US97/03925 :
Int. Filing Date: 13 March 1997 : PETITION
Priority Date: 13 March 1996 :
For: REAL-TIME, MULTIPLE PATH VIDEO
IMAGING SYSTEM : UNDER 37 CFR 1.137(b)

This decision is in response to applicant's "Petition to Revive Application under 37 § CFR 1.137(b)," filed 07 October 1998.

BACKGROUND

On 13 March 1997, applicant filed international application PCT/US97/03925 claiming priority to a United States patent application filed 13 March 1996.

On 06 October 1997, a Demand was filed with the International Preliminary Examination Authority electing the United States. The election was made prior to the expiration of 19 months from the priority date. Accordingly, the deadline for submission of a copy of the international application and payment of the basic national fee was extended to expire thirty months from the priority date, i.e., 14 September 1998 (13 September 1998 was a Sunday).

On 07 October 1998, applicant filed for entry into the national stage in the United States under 35 U.S.C. 371 which was accompanied by, *inter alia*, the instant petition; an executed declaration; a verified statement claiming small entity status; a check for \$360.00 to cover the basic national fee; a check for \$660.00 to pay for the petition, and; authorization to charge Counsel's Deposit Account No. 17-0055 for any additional fees as required.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional delay must be accompanied by (1) a proper reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due

date for the reply to the filing of a grantable petition pursuant to this paragraph was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

Paying the basic national fee is the proper reply. The appropriate petition fee of \$660.00 as required by 37 CFR 1.17(m) has been submitted. Applicants' attorney states that "[t]he delay in filing the national stage application was unintentional." This statement does not comply with 37 CFR 1.137(b). However, the statement will be accepted and construed as meaning that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." If this is an incorrect interpretation in view of the rules, petitioners are required to provide a statement to that effect. The terminal disclaimer is not required in this application since it was filed after 08 June 1995.

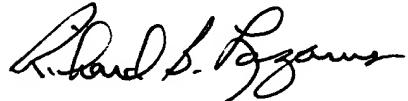
Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

DECISION

In view of the discussion mentioned above, applicants' petition under 37 CFR 1.137(b) is GRANTED.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 13 March 1996, under 35 U.S.C. 363, and a 35 U.S.C. 102(e) and 371(c) date of 07 October 1998.

This application is being forwarded to the United States Designated/Elected Office for preparation and mailing of a NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495 (Form PCT/DO/EO/903) in accordance with this decision, and for the preparation and mailing of a filing receipt.



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